

(C) Persons who file tariffs pursuant to requirements of Commission Orders or agreements, approved under section 15 of the Shipping Act, 1916 and/or effective under section 6 of the Shipping Act of 1984, are not relieved of such requirements by this part.

(ii) [Reserved]

(4) *Electronic filing.* All tariffs filed under this part shall be properly formatted as provided in this part and in the ATFI “Batch Filing Guide,” under § 514.8(c)(3).

(d) *Rejection of tariff data.* (1) Acceptance of tariff matter does not establish the legality of the rates and practices described therein. The mere filing of a tariff does not excuse the tariff owner or publisher from the obligations of the 1984 Act or this chapter, regardless of whether these obligations preceded or followed the filing of the tariff in question.

(2) Any tariff matter submitted for filing, including service contracts and their essential terms, which fails in any respect to conform with the applicable shipping statutes, with the provisions of this part, or with a Commission Order, is subject to rejection or partial rejection after filing.

(3) Notices of rejection, with reasons therefor, will be made available to filers through electronic mail and, if not accessed by the filer within a certain period of time, will be sent by regular U.S. mail. For service contracts and/or essential terms, the Commission may also notify the filing party of the Commission’s intent to reject within 20 days of filing. See § 514.7(g). (Note: There will be no notice of rejection for attempted filings which are not accepted into the system because they are not syntactically correct for processing.)

(4) Upon rejection, rejected tariff matter is void and its use is unlawful.

(5) After rejection, the filer is responsible for putting its tariff in order. See § 514.9(b)(19)(iv).

(6) The “Status” function on many ATFI screens displays a pop-up window that shows the status of a filed tariff item, including a code that identifies whether it was accepted or rejected, a description of the code, and comments entered by an FMC Examiner regarding a rejected item.

(e) *Penalties; suspension of tariff material.* (1) Operating without an effective tariff on file with the Commission or charging rates not in conformance with such a tariff is unlawful.

(2) Foreign commerce. Pursuant to section 13 of the Shipping Act of 1984, operating without an effective tariff on file or charging rates not in conformance with such a tariff is subject to a civil penalty of not more than \$5,000 for each violation unless the violation was willfully and knowingly committed, in which case the amount of civil penalty may not exceed \$25,000 for each violation. Each day of a continuing violation constitutes a separate offense. Additionally, the Commission may suspend any or all tariffs of the common carrier, or that common carrier’s right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months. See § 514.19.

(3) Domestic offshore commerce. (i) The Commission may at any time direct the cancellation of tariff matter which does not conform to the 1916 Act or this part. See § 514.19.

(ii) Violations of the provisions of this part are subject to a civil penalty of not more than \$1,000 for each day such violation continues.

(f) *Filing fee.* Under the authority of the Independent Offices Appropriation Act, 31 U.S.C. 9701, the Commission assesses a filing fee for ATFI filings. See § 514.21(i) for filing fees.

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#### § 514.2 Definitions.

The following definitions (in alphabetical order) shall apply to the regulations of this part and to all tariffs and service contracts filed pursuant to them, unless otherwise indicated by the context of this part.

*Across-the-board increase (domestic offshore commerce)* means any change in rates, fares, or charges in domestic offshore commerce which will: (1) Result in an increase in not less than 50 percent of the total rate, fare or charge items in the tariffs per trade of any carrier, and (2) directly result in an increase in gross revenues of said carrier

for the particular trade of less than 3 percent. See § 514.9(b)(1).

*Alternate port service* means substituted service whereby the vessel-operating common carrier for whom the tariff object is filed uses someone else to perform the transportation between the point at which the cargo was tendered by the shipper and the port at which the cargo is actually loaded on the filing carrier's vessel, or between the port at which the cargo is discharged from the filing carrier's vessel and the point at which the cargo is to be tendered to the consignee.

*Amendment* means any change, alteration, correction or modification of an existing tariff.

*Assessorial (accessorial)* means a particular service or condition, other than the basic transportation, which is usually described in a commodity description, TLI, or Tariff Rule, and for which a charge may be added to the basic ocean freight rate. See § 514.10(d).

*Assessorial charge* means the amount determined for an assessorial service or condition that is added to the basic ocean freight rate. See § 514.10(d).

*Assessorial charge calculation* means an algorithmic representation of the conditions and mathematical steps necessary to calculate an assessorial charge.

*Associative check* means an automated comparative check of data filed with ATFI to check for logical conformity with Commission tariff filing rules and previously filed tariff matter. See § 514.8(n)(1)(iii).

*ATFI* means the Commission's Automated Tariff Filing and Information System, a computer-based system for creating, filing, processing and retrieving ocean freight and terminal tariffs and the essential terms of service contracts.

*Availability (period of)* means the process of offering essential terms of a service contract to all similarly situated shippers who can accept them for the purpose of entering their own service contract (for a period of 30 days or more). See § 514.17(d)(3).

*Batch filing* means the process by which a tariff filer can transmit to the Commission tariff matter which has been created on the filer's own computer. (Also see "on-line batch filing,"

"in-bulk batch filing" and "tape batch filing"). See § 514.8 (c), (d)(3), and (l).

*Batch Filing Guide* means an ATFI user document, available upon request from the Commission, which defines the procedures and technical requirements for batch filing. See § 514.8(d)(3).

*BTCL* means the Commission's Bureau of Tariffs, Certification and Licensing.

*Bulk cargo* means cargo that is loaded and carried in bulk without mark or count, in a loose unpackaged form, having homogeneous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and is, therefore, subject to the tariff filing requirements of this part.

*Checking* means the service of counting and checking cargo against appropriate documents for the account of the cargo or the vessel, or other person requesting same. See "terminal services." See § 514.15(b)(23).

*Chemical parcel tanker*. See "common carrier."

*Co-loading (foreign commerce)* means the combining of cargo, in the import or export commerce of the United States, by two or more NVOCCs for tendering to an ocean carrier under the name of one or more of the NVOCCs. See § 514.15(b)(14).

*Combination rate* means a rate for a shipment moving under intermodal transportation which is computed by the addition of a TLI, and an inland rate(s) applicable from/to inland point(s) not covered by said TLI.

*Commission* means the Federal Maritime Commission.

*Commodity description* means a comprehensive description of a commodity listed in a tariff, including a brief definition of the commodity, any applicable assessorial, related assessorial charges if any, and the commodity index entries by which the commodity is referenced.

*Commodity description number* means a 10-digit number used to identify a commodity description. See § 514.13(a).

*Commodity index* means an index of the commodity descriptions contained in a tariff. See § 514.13(a).

*Commodity rates* means rates for shipping to or from specific locations a commodity or commodities specifically

named or described in the tariff in which the rate or rates are published. See § 514.13(a).

*Common carrier or carrier (foreign commerce)* means a person holding itself out to the general public to provide transportation by water of cargo between the United States and a foreign country for compensation that:

(1) Assumes responsibility for the transportation from port or point of receipt to the port or point of destination; and

(2) Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel tanker.

As used in this paragraph, “chemical parcel-tanker” means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

*Conference* means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff. The term shall also include any association of ocean common carriers which is permitted, pursuant to an effective agreement, to fix rates and to enter into service contracts, but the term does not include a joint service, consortium, pooling, sailing or transshipment agreement. For the term “marine terminal conference (agreement),” see § 514.3(a)(8) and 572.307(b) of this chapter.

*Conformity checks* means all types of system checks to determine compliance with the criteria of syntax checks (data form and format), validity checks (reference tables’ entries), and associative checks.

*Consignee* means the recipient of cargo from a shipper; the person to whom a transported commodity is to be delivered.

*Container* means a demountable and reusable freight-carrying unit designed to be transported by different modes of transportation and having construction, fittings, and fastenings able to withstand, without permanent distortion or additional exterior packaging or containment, the normal stresses that apply on continuous all-water and intermodal transportation. The term includes dry cargo, ventilated, insulated, refrigerated, flat rack, vehicle rack, liquid tank, and open-top containers without chassis, but does not include crates, boxes or pallets.

*Contract party* means any party signing a service contract as a common carrier, conference, shipper or shippers’ association. See §§ 514.7 and 514.17.

*Controlled common carrier* means an ocean common carrier that is, or whose operating assets are, directly or indirectly owned or controlled by the government under whose registry the vessels of the common carrier operate; ownership or control by a government shall be deemed to exist with respect to any common carrier if:

(1) A majority portion of the interest in the common carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(2) That government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer or the chief executive officer of the common carrier. See §§ 514.3(a)(2); 514.3(b); 514.4(c); 514.9(b); and 514.13(b)(7).

*Data Element Dictionary (DED)* means a list of the data fields and the values, terms, and expressions allowable for each field. The ATFI-specific Data Element Dictionary is a section in the ATFI “Batch Filing Guide.” See § 514.8(d)(3).

*Destination scope* means a location group in a tariff detailing the allowable destinations for TLIs defined in that tariff. See §§ 514.11(b)(10) and 514.13(b).

*Dockage* means the charge assessed against a vessel for berthing at a

wharf, pier, bulkhead structure, or bank or for mooring to a vessel so berthed. See also “terminal services.”

*Domestic offshore carrier* means a carrier engaged in the transportation by water of cargo and/or passengers on the high seas or the Great Lakes on regular routes from port to port between Alaska, Hawaii, a Territory, District or possession of the United States and any other State, Territory, District or possession of the United States, or between places in the same Territory, District or possession. See § 514.1(c)(2)(ii).

*Domestic offshore commerce* means commerce that may be engaged in by domestic offshore carriers. See § 514.1(c)(2)(ii).

*Domestic offshore tariff* means a tariff of port to port rates for transporting in domestic offshore commerce.

*Dummy algorithm.* See “null linkage.”

*Edit checks.* See “conformity checks.”

*Effective date* means the date (12:01 a.m.) upon which a filed tariff or tariff element is scheduled to go into effect by the filer. See §§ 514.9(a) and 514.10(a)(3).

*Equipment interchange agreement* means a sample agreement which includes the general terms and conditions affecting cost (e.g., maintenance and repair requirements, insurance obligations, pickup or drop off charges and services such as tracing and replenishing fuel or refrigerant for reefer containers) that govern the use of carrier-provided equipment following interchange, including cargo containers, trailers and chassis. It also includes the standard free time allowed, and detention or similar charges assessed. See §§ 514.3(a)(1) and 514.15(b)(21).

*Equipment interchange Tariff Rule* or *Equipment interchange tariff* means either a Tariff Rule or general reference tariff which contains the terms and conditions, including standard free time and charges, governing the use of carrier equipment following interchange, and may incorporate an equipment interchange agreement and the filer’s exceptions thereto. See §§ 514.12(c)(3) and 514.15(b)(21).

*Essential terms.* See “statement of essential terms.”

*Essential terms publication* means the single publication which is maintained by each carrier or conference for service contract(s) and which contains statements of essential terms for every such contract. See § 514.17(b).

*Expiration date* means the last day, after which the entire tariff or tariff element (e.g., TLI) is no longer in effect. See “thru date” and § 514.10(a).

*File or filing* (of service contracts or amendments thereto) means actual receipt at the Commission’s Washington, DC offices. See § 514.7.

*File or filing* (of tariff matter) means the electronic entering of tariff matter into the ATFI computer after receipt by electronic means or physical delivery of magnetic tape(s). See § 514.8(c).

*Filing date* (established by the ATFI system) means the date any tariff matter is electronically transmitted to and entered into the system as a successful transmission, or physically delivered to a designated location(s) and date-time stamped. See §§ 514.8(c) and 514.10(a)(2).

*FMC examiner* means an employee of the Commission who reviews tariffs to ensure that they conform to the shipping statutes and the regulations set by the Commission.

*Foreign commerce* means that commerce under the jurisdiction of the 1984 Act.

*Forest products* means forest products in an unfinished or semifinished state that require special handling moving in lot sizes too large for a container, including, but not limited to, lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, paper board in rolls and paper in rolls. See §§ 514.3(b)(1) and 514.7(c).

*Free time* means the specified period during which cargo may occupy space assigned to it on terminal property free of wharf demurrage or terminal storage charges immediately prior to the loading or subsequent to the discharge of such cargo on or off the vessel. See “terminal services” and § 514.15(b)(23). “Free time” is also accorded to cargo

at destination rail terminals and destination motor terminals located at inland points, as well as at container freight stations and other off-dock delivery points removed from the terminal. Additionally, “free time” is a term commonly used in connection with use of carrier equipment at both origin and destination under, for example, equipment interchange tariffs.

*Freight forwarder.* See “ocean freight forwarder.”

*General decrease* (domestic offshore commerce) means any change in rates, fares, or charges which will:

(1) Result in a decrease in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier; and

(2) Directly result in a decrease in gross revenues of said carrier for the particular trade of not less than 3 percent. See § 514.9(b)(7).

*General increase* (domestic offshore commerce) means any change in rates, fares, or charges which will:

(1) Result in an increase in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier; and

(2) Directly result in an increase in gross revenues of said carrier for the particular trade of not less than 3 percent. See § 514.9(b)(7).

*Geographic area* means the general location from which and/or to which cargo subject to a service contract will move in through service. See § 514.17.

*Handling* means the service of physically moving cargo between point of rest and any place on the terminal facility, other than the end of ship's tackle. See “terminal services” and § 514.15(b)(23).

*Harmonized Code* means the coding provisions of the Harmonized System. See § 514.13(a).

*Harmonized System* means the “International Convention on the Harmonized Commodity Description and Coding System,” which may be obtained from the Customs Cooperation Council (“CCC”) in Brussels, Belgium, or any of its authorized distributors. See § 514.13(a).

*Heavy lift* means the service of providing heavy lift cranes and equipment for lifting cargo. See “terminal services” and § 514.15 (b)(4) and (b)(23).

*In-bulk batch filing* means batch filing by tariff publishers using the ATFI transaction sets to create files on magnetic tape for physical delivery to the Commission's ATFI Computer Center. Also referred to as tape batch filing. See § 514.8(c)(3).

*Inland point* means any city and associated state/province, country, U.S. ZIP code, or U.S. ZIP code range, which lies beyond port terminal areas. (A city may share the name of a port: the immediate ship-side and terminal area is the port, but the rest of the city is considered an inland point.) See § 514.15(b)(1).

*Inland rate* means a rate specified from/to an ocean port to/from an inland point, for specified modes of overland transportation. See § 514.15(b)(1).

*Inland rate table* means a structured matrix of geographic inland locations (points, U.S. ZIP code ranges, etc.) on one axis and transportation modes (truck, rail, etc.) on the other axis, with the inland rates specified at the matrix row and column intersections. See § 514.15(b)(1).

*Interactive filing* means the process by which a tariff filer accesses the ATFI system via dial-up, using telecommunications links, a modem and terminal, and interacts with the system on a transaction by transaction basis to retrieve its own tariff information, create tariff filings, and verify previous filings. See § 514.8(c)(1).

*Interactive retrieval* means the process by which any member of the public accesses the ATFI system via dial-up connection, using telecommunications links, a modem and a terminal, and interacts with the system on a transaction-by-transaction basis to retrieve tariff matter of carriers, conferences and terminal operators which has been filed in the ATFI database. See § 514.20.

*Intermodal service.* See “intermodal transportation.”

*Intermodal transportation* means continuous transportation involving more than one mode of service, (e.g., ship, rail, motor, air), for pickup and/or delivery at a point beyond the area of the port at which the vessel calls. The term “intermodal transportation” can apply to “through transportation (at through rates)” or transportation on

through routes using combination rates. See § 514.15(b)(1).

*Joint rates* means rates or charges established by two or more common carriers for ocean transportation over the combined routes of such common carriers. See § 514.15(b)(1).

*Loading and unloading* means the service of loading or unloading cargo between any place on the terminal and railroad cars, trucks, lighters or barges or any other means of conveyance to or from the terminal facility. See “terminal services” and § 514.15(b)(23).

*Local rates* means rates or charges for transportation over the route of a single common carrier (or any one common carrier participating in a conference tariff), the application of which is not contingent upon a prior or subsequent movement. See § 514.15(b)(1).

*Location group* means a logical collection of geographic points, ports, states/provinces, countries, or combinations thereof, which is primarily used to identify, by location group name, a group that may represent tariff origin and/or destination scope and TLI origin and/or destination. See §§ 514.10(b) and 514.11(b)(10).

*Log in* or *log on* means entering the ATFI system to perform functions such as filing or retrieving, and requires certain formalities, such as password, ID, etc. See § 514.8(f).

*Log off* or *log out* means exiting the ATFI system after the user is finished with functions such as filing or retrieving. Automatic log off or logout can occur after certain periods of time. See § 514.20(c)(2).

*Loyalty contract (foreign commerce)* means a contract with an ocean common carrier or conference, other than a service contract or contract based upon time-volume rates, by which a shipper obtains lower rates by committing all or a fixed portion of its cargo to that carrier or conference. See § 514.15(b)(27).

*Marine terminal services agreement* means an agreement as defined in § 572.310(a). See § 514.3(a)(8).

*1984 Act* means the Shipping Act of 1984.

*1916 Act* means the Shipping Act, 1916, as amended (including the Intercoastal Shipping Act, 1933, and the Transportation Act of 1940).

*Non-vessel-operating common carrier (or NVOCC) (foreign commerce)* means a common carrier that does not operate the vessels by which the ocean transportation is provided and is a shipper in its relationship with an ocean common carrier.

*Null linkage or dummy algorithm* means a functionality to label and link assessorial charges in full-text format to ATFI objects, such as TLIs and commodities. See § 514.10(d).

*Ocean common carrier (foreign commerce)* means a vessel-operating common carrier; but the term does not include one engaged in ocean transportation by ferry boat or ocean tramp.

*Ocean freight forwarder (foreign commerce)* means a person in the United States that:

(1) Dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers; and

(2) Processes the documentation or performs related activities incident to those shipments.

*On-line batch filing* means the process by which a filer transmits tariff information, properly formatted in accordance with published ATFI transaction set formats, to the ATFI system as a “batch” of transactions via dial-up telecommunications links from its own computer. See § 514.8(c)(2).

*Open for public inspection* means the maintenance, in electronic or paper form, of a complete and current set of the tariffs used by a common carrier, conference or terminal operator, or to which it is a party, in its office(s). See § 514.8(k).

*Open rate (foreign commerce)* means a rate on a specified commodity or commodities over which a conference relinquishes or suspends its ratemaking authority, in whole or in part, thereby permitting each individual ocean common carrier member of the conference to fix its own rate on such commodity or commodities. See §§ 514.13(b)(19) and 514.15(b)(15).

*Organization name* means an entity's name on file with the Commission and for which the Commission assigns an organization number. See § 514.11(a).

*Organization record* means information regarding an entity, including its

name, address, organization number, carrier type, and the filing and effective dates of the organization record. See § 514.11(a).

*Origin scope* means a location group defining the geographic range of cargo origins covered by a tariff. See §§ 514.11(b)(10) and 514.13(b).

*Owner (of tariff material)* means the carrier, conference or terminal establishing the rates and charges in tariff material and on whose behalf the tariff material is filed. See “publisher (tariff).”

*Page-based tariff* means the traditional type of tariff in which rates are listed on the pages of a paper document. See § 514.8(k)(2).

*Person* includes individuals, firms, partnerships, associations, companies, corporations, joint stock associations, trustees, receivers, agents, assignees and personal representatives.

*Point of rest* means that area on the terminal facility which is assigned for the receipt of inbound cargo from the ship and from which inbound cargo may be delivered to the consignee, and that area which is assigned for the receipt of outbound cargo from shippers for vessel loading. See § 514.15(b)(23).

*Port* means a place at which a common carrier originates or terminates (by transshipment or otherwise) its actual ocean carriage of cargo or passengers as to any particular transportation movement. See §§ 514.15(b)(1), (b)(13) and (b)(23).

*Port range* means those ports in the country of loading or unloading of service contract cargo that are regularly served by the contracting carrier or conference, as specified in its tariff of general applicability, even if the contract itself contemplates use of but a single port within that range. See §§ 514.7 and 514.17.

*Port terminal facilities* means one or more structures comprising a terminal unit, which include, but are not limited to wharves, warehouses, covered and/or open storage spaces, cold storage plants, grain elevators and/or bulk cargo loading and/or unloading structures, landings, and receiving stations, used for the transmission, care and convenience of cargo and/or passengers in the interchange of same between

land and water carriers or between two water carriers. See § 514.15(b)(23).

*Post, posted, posting (of tariff matter—domestic offshore commerce)* means the maintenance of a complete, up-to-date tariff, in electronic or paper form, at the office(s) of each carrier party to the tariff under conditions assuring its availability for inspection by members of the public. See § 514.8(k).

*Practices.* See “tariff.”

*Project rates* means rates applicable to the transportation of materials and equipment to be employed in the construction or development of a named facility used for a major governmental, charitable, manufacturing, resource exploitation, public utility or public service purpose, and also including disaster relief projects. See § 514.13(a)(5).

*Proportional rates* means rates or charges assessed by a common carrier for transportation services, the application of which is conditioned upon a prior or subsequent movement. See § 514.15(b)(1).

*Publisher (tariff)* means an organization authorized to file or amend tariff information.

*Rate* means a price quoted in a tariff for providing a specified level of transportation service for a stated cargo quantity, from origin to destination, on and after a stated effective date or within a defined time frame. See § 514.13(b)(19).

*Retrieval.* See “interactive retrieval.”

*Rules (in a tariff, i.e., Tariff Rules)* means the stated terms and conditions set by the tariff owner which govern the application of tariff rates, charges and other matters. See § 514.15.

*Scope* means the location group(s) (geographic grouping(s)) listing the ports or ranges of ports to and from which the tariff's rates apply. See § 514.11(b)(10).

*Service contract* means a contract between a shipper or shippers' association and an ocean common carrier or conference, in which the shipper makes a commitment to provide a certain minimum quantity of its cargo or freight revenue over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level -- such as, assured space, transit time, port rotation, or similar

service features. The contract may also specify provisions in the event of non-performance on the part of either party. See § 514.7.

*Service contract records* means such documents and information as will enable the Commission to verify compliance with the terms of a service contract and shall include freighted ocean bills of lading or equivalent shipping documents which establish that the terms of the contract are being or have been met. See § 514.7(m).

*Shipment* means all of the cargo carried under the terms of a single bill of lading.

*Shipper* means an owner or person for whose account the ocean transportation of cargo is provided and includes the person to whom delivery is to be made (consignee).

*Shippers' association (foreign commerce)* means a group of shippers that consolidates or distributes freight on a non-profit basis for the members of the group in order to secure carload, truckload, or other volume rates or service contracts.

*Special case number* means a code number assigned by the Commission to a specific filer for a limited, designated purpose, such as for a particular rate (TLI) increase to go into effect on less than statutory notice by special permission or for other ATFI associative checks to be bypassed. See § 514.9(b)(19).

*Special permission* means permission, authorized by the Commission, for certain tariff filings that do not conform with applicable regulations, usually involving effectiveness on less than the normal statutory notice.

*Specimen bill of lading* means a sample bill of lading contained in a tariff for example purposes, which, in ATFI, is achieved by electronically entering the terms contained on the carrier's bill of lading in the appropriate Tariff Rule. See § 514.15(b)(8).

*Statement of essential terms* means the concise summary of all essential terms of a service contract required to be filed with the Commission and made available to the general public in tariff format by the carrier or conference in its Essential Terms Publication. See § 514.17.

*Submit or submission (foreign commerce—service contracts)* means “file” or “filing” under this section. See § 514.7.

*Substituted service* means the use of transportation performed by someone other than the carrier for whom the tariff object is filed. See “alternate port service,” “transshipment,” and §§ 514.15(b)(1) and (b)(13).

*Syntax check* means an automatic system review of items in filings to check conformity with data element type and size, and other format requirements outlined in the “Batch Filing Guide.” See § 514.8(n)(1)(i).

*Tape batch filing.* See “in-bulk batch filing.”

*Tariff* means a publication containing the actual rates, charges, classifications, Tariff Rules, regulations and practices of a common carrier, conference of common carriers, or marine terminal operator. The term “practices” refers to those usages, customs or modes of operation which in any way affect, determine or change the transportation rates, charges or services provided by a common carrier or marine terminal operator, and, in the case of conferences, must be restricted to activities authorized by the basic conference agreement.

*Tariff amendments.* See “amendment.”

*Tariff filing* means any tariff or modification thereto which is received by the Commission as properly filed pursuant to these rules. See “file, filing” and § 514.8(c).

*Tariff line item (TLI)* (with a 14-digit number) means a single freight rate, in effect on and after a specific date or for a specific time period, for the transportation of a stated cargo quantity, which may move from origin to destination under a single specified set of transportation conditions, such as container size or temperature. See § 514.13(b).

*Tariff matter, tariff material, tariff publication* means a tariff and the essential terms of service contracts, or any portion and amendment thereof, tendered for filing with the Commission pursuant to this part.

*Tariff of general applicability (foreign commerce—service contracts)* means the effective tariff, on file at the Commission under this part, that would apply



to the transportation in the absence of a service contract. See §§ 514.7(h)(1)(iv) and 514.12(a).

*Tariff record* means a collection of tariff identification data that include the name and type of the tariff, the tariff number, publishing office, units of weight and measure, and the date the tariff was filed, the date it became effective, and the date it expires. See § 514.11(a).

*Tariff Rule.* See “rules (in a tariff)” and § 514.15.

*Terminal services* includes checking; dockage; free time; handling; heavy lift; loading and unloading; terminal storage; usage; wharfage; and, wharf demurrage, as defined in this section. The definition of terminal services set forth in this section shall be set forth in tariffs filed pursuant to this part except that other definitions of terminal services may be used if they are correlated by footnote or other appropriate method to the definitions set forth herein. Any additional services which are offered shall be listed and charges therefor shall be shown in terminal tariffs. See § 514.15(b)(23).

*Terminal storage* means the service of providing warehouse or other terminal facilities for the storage of inbound or outbound cargo after the expiration of free time, including wharf storage, shipside storage, closed or covered storage, open or ground storage, bonded storage and refrigerated storage, after storage arrangements have been made. See “terminal services” and § 514.15(b)(23).

*Termination date* means the expiration date of a service contract or the date the service contract is terminated for reasons not specifically set forth in the contract. See § 514.17(d).

*Through rate (domestic offshore commerce)* means a total charge for transportation from origin to destination. It may be a local rate, a joint rate, or a combination of separately established rates. See § 514.15(b)(1).

*Through rate (foreign commerce)* means the single amount charged by a common carrier in connection with through transportation. See § 514.15(b)(1).

*Through route (domestic offshore commerce)* means continuous transportation between origin and destination

for which a through rate is assessed and which is offered or performed by:

(1) A single domestic offshore carrier offering service between port terminal areas;

(2) Two or more domestic offshore carriers; or

(3) One or more domestic offshore carriers in connection with one or more other carriers. See § 514.15(b)(1).

*Through transportation (domestic offshore commerce)* means continuous transportation between points of origin and destination, either or both of which lie beyond port terminal areas, for which a through rate or combination rate is assessed and which is offered or performed by one or more carriers, at least one of which is a domestic offshore carrier.

*Through transportation (foreign commerce)* means continuous transportation between points of origin and destination, either or both of which lie beyond port terminal areas, for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port. See § 514.15(b)(1).

*Thru date* means the date (11:59 p.m.) after which an amendment to a tariff element (e.g., TLI rate) is designated by the filer to be unavailable for use and the previously effective tariff element automatically goes back into effect. See “expiration date” and § 514.10(a)(5).

*Time/volume rate (foreign commerce)* means a rate published in a tariff which is conditional upon receipt of a specified aggregate volume of cargo or aggregate freight revenue over a specified period of time. See §§ 514.13(b)(19) and 514.15(b)(26).

*TLI.* See “tariff line item.”

*Trade name(s)* means a name or names that a tariff filer uses for conducting business, but which is not necessarily its legal name. This is also known as a “d/b/a” (doing business as) name. See § 514.11.

*Traditional tariff* means a page-based tariff in which all of the tariff components are contained on the pages of a paper document. See § 514.8(k)(2).

*Transaction set* means a pre-defined, ATFI-compatible data format used for

electronic batch filing (electronic data interchange or EDI) of tariff information. When using third-party software for batch filing, all data must be formatted into the appropriate transaction sets before it can be batch filed to the Commission through the ATFI system. The transaction set formats are available to the public in the ATFI "Batch Filing Guide." See § 514.8(d)(3).

*Transshipment* means the physical transfer of cargo from a vessel of one carrier to a vessel of another in the course of all-water or through transportation, where at least one of the exchanging carriers is a vessel-operating carrier subject to the FMC's jurisdiction. See § 514.15(b)(13).

*Usage* means the use of terminal facility by any rail carrier, lighter operator, trucker, shipper or consignee, its agents, servants, and/or employees, when it performs its own car, lighter or truck loading or unloading, or the use of said facilities for any other gainful purpose for which a charge is not otherwise specified. See "terminal services" and § 514.15(b)(23).

*Validity check* means a system review of certain items in filings to check conformity with reference tables outlined in the transaction sets and standard glossaries employed in ATFI, e.g., origin and destination locations must be correctly spelled and be members of the ATFI locations glossary. See § 514.8(n)(1)(ii).

*Via port(s)* means the port or port group at which a vessel calls for through transportation of cargo from another origin and/or to another destination.

*Wharf demurrage* means a charge assessed against cargo remaining in or on terminal facilities after the expiration of free time, unless arrangements have been made for storage. See "terminal services."

*Wharfage* means a charge assessed against the cargo or vessel on all cargo passing or conveyed over, onto, or under wharves or between vessels (to or from barge, lighter, or water), when berthed at wharf or when moored in slip adjacent to wharf. Wharfage is solely the charge for use of wharf and does not include charges for any other service. See "terminal services" and § 514.15(b)(23).

*Workdays (domestic offshore commerce)* means all days except Saturdays, Sundays, and all federal holidays observed in the District of Columbia. See § 514.9(b)(24)(ii).

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### § 514.3 Exemptions and exclusions.

Applications for exemptions are governed by § 502.69 of this chapter. The following exemptions are granted from certain described requirements of this part:

(a) *Certain services involved in the following:*

(1) *Equipment interchange agreements.* Equipment-interchange agreements between common carriers subject to this part and inland carriers, where such agreements are not referred to in the carriers' tariffs and do not affect the tariff rates, charges or practices of the carriers, are exempt from the tariff filing requirements of the 1984 Act and the rules of this part. See §§ 514.12(b)(3) and 514.15(b)(21).

(2) *Controlled common carriers in foreign commerce.* A controlled common carrier shall be exempt from the provisions of this part exclusively applicable to controlled common carriers (See § 514.4(c)) when:

(i) The vessels of the controlling state are entitled by a treaty of the United States to receive national or most-favored-nation treatment;

(ii) The controlling state subscribed, as of November 17, 1978, to the shipping policy statement contained in note 1, Annex "A" of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development;

(iii) As to any particular rate, the controlled common carrier's tariff contains an amount set by the duly authorized action of a ratemaking body, except that this exemption is inapplicable to rates established pursuant to an agreement in which all the members are controlled common carriers not otherwise excluded by this paragraph (see § 514.9(b)(24)(i)(A));

(iv) The controlled common carrier's rates, charges, classifications, Tariff